

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

TONY ROQUE, a Washington
Resident,) C20-00658-RAJ
Plaintiff,)
) SEATTLE, WASHINGTON
v.) June 17, 2020 -
SEATTLE HOUSING AUTHORITY, a) 2:00 P.M.
Public Entity,)
Defendant.) TELEPHONIC CONFERENCE
)

VERBATIM REPORT OF PROCEEDINGS
BEFORE THE HONORABLE RICHARD A. JONES
UNITED STATES DISTRICT JUDGE

APPEARANCES:

Thomas P. Zito
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For the Defendant: Leigh Ann Collings Tift
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Proceedings stenographically reported and transcript produced with computer-aided technology

1 THE COURT: Good afternoon. This is Judge Jones calling
2 in.

3 Ms. Erickson, would you please call the case?

4 THE CLERK: We are here in the matter of Tony Roque
5 versus Seattle Housing Authority, Cause No. C20-658-RAJ.

6 If counsel first for the plaintiff could please identify
7 yourself for the record?

8 MS. FONG: Good afternoon. Bonnie Fong for plaintiff.

9 MR. ZITO: Good afternoon, Your Honor. Thomas Zito also
10 for plaintiff.

11 MR. REYNOLDSON: Good afternoon, Your Honor. This is
12 Conrad Reynoldson for plaintiff as well.

13 MS. TIFT: Your Honor, this is Leigh Ann Tift -- I'm so
14 sorry.

15 THE CLERK: No. Go ahead, Ms. Tift.

16 MS. TIFT: For the Seattle Housing Authority, this is
17 Leigh Ann Tift.

18 THE CLERK: And, Your Honor, we also have Nickie Drury,
19 our court reporter, on the line.

20 THE COURT: All right. Thank you. Thank you all for
21 being here this afternoon.

22 I moved this up to expedite, hopefully, resolution of this
23 issue. It appears some issues have been raised regarding
24 compliance. Let me hear first from plaintiff's counsel. And
25 before you speak, identify yourself for the benefit of the court

1 reporter and the Court.

2 MS. FONG: Thank you, Your Honor. This is Bonnie Fong
3 for the plaintiff.

4 Yes. Essentially, Your Honor, Tony has had difficulty even
5 parking in the regular spot because --

6 THE COURT REPORTER: I'm sorry. I'm sorry. Excuse me.
7 Ms. Fong, can you repeat that please? You were cutting out.

8 MS. FONG: Tony Roque, the plaintiff in this matter, he
9 parked in the spot that the --

10 THE COURT REPORTER: I'm sorry, Your Honor. Your Honor,
11 this is Nickie. My phone is fine, I have a lot of bars, but I
12 cannot hear Ms. Fong. She keeps cutting out.

13 THE COURT: Counsel, do you --

14 MS. FONG: I'm on a cell phone.

15 THE COURT: Do you have access to a landline or a
16 different cell phone?

17 MS. FONG: I do. If we could -- I'm just moving into a
18 better location in my house right now. Could we possibly try
19 this one more time?

20 THE COURT REPORTER: Absolutely. Please.

21 THE COURT: Yes.

22 Are you in a new location now?

23 MS. FONG: Yes, I am.

24 THE COURT: All right. Let's try it.

25 MS. FONG: Okay. Thank you.

1 THE COURT: Let's try a test {undecipherable.}

2 THE COURT REPORTER: I'm sorry, Your Honor?

3 THE COURT: I'm asking counsel not to make statements
4 about the case, but just to do a test to make sure that we can
5 hear her.

6 MS. FONG: Oh. Test, test. Can you hear me, Your
7 Honor, and Nickie?

8 THE COURT REPORTER: This is the court reporter. I can
9 hear you fine now. Thank you.

10 MS. FONG: Okay. Great.

11 THE COURT: Thank you.

12 MS. FONG: Thank you.

13 Yes. Plaintiff in this case, Mr. Rogue, has had difficulty
14 parking in his parking space that SHA has reserved for him under
15 the court order. We have reached out to the Seattle Housing
16 Authority every time this has happened, and, essentially, we're
17 not getting any assistance in helping him get access to his
18 reserved spot. We have asked them to enforce it through several
19 means, and they have been not helpful in the matter, and so we're
20 asking the Court to assist us in enforcing this reserved parking
21 space.

22 THE COURT: And, counsel, what do you mean by way of
23 assistance from the Court? The Court has already issued an
24 order.

25 MS. FONG: Yes, Your Honor. Well, in this case we're

1 asking for you to direct SHA to do something to help us gain
2 access to this reserved spot. Again, we've asked them to tow
3 the cars, as they have towed the care providers' for our client
4 before, and they're not willing to do that. We've asked them to
5 identify the cars that are parking in the parking space so that
6 we can identify whether they are employees or if they are other
7 residents, and so we can either pinpoint whether they just need a
8 bigger and more obvious sign, or if SHA employees think that that
9 space is reserved for SHA purposes, then they simply need to
10 train their staff on the matter. But right now we don't have any
11 information as to what is exactly causing the problem. And so
12 we're asking the Court to direct them to assist us in helping him
13 gain access to this reserved spot.

14 THE COURT: And, counsel, have you inspected the sign?

15 MS. FONG: No. We -- not personally, no.

16 THE COURT: We have got three lawyers on the phone.
17 Have any of you gone up there and inspected the sign to see if
18 it's adequate or inadequate or the deficiency?

19 MS. FONG: We have seen pictures of it, Your Honor, and
20 it is a single eight-and-a-half-by-eleven sheet of paper that
21 says "Reserved" on it, and then there's a cone that my client's
22 care providers are using but other residents are moving.

23 But, no, due to the stay-at-home order, we're still
24 social-distancing.

25 THE COURT: Does it say reserved for a particular

1 individual on the sign?

2 MS. FONG: No. It just says "Reserved."

3 THE COURT: What color is the sign, or the coloration of
4 the letters on the sign?

5 MS. FONG: It's green with black lettering, I believe.

6 THE COURT: And what height is it placed above the floor
7 level or the ground level?

8 MS. FONG: It looks -- in the picture, it appears to be
9 four or five feet above the ground. And this is also in the
10 exhibit that I submitted to the Court. It says "Reserved
11 Parking" on it.

12 THE COURT: Okay.

13 And, counsel, when you say -- they work for your client,
14 Tony -- but when you say they're having problems, what specifics
15 do you have by the number of times or the frequency of times that
16 that spot has not been available?

17 MS. FONG: It's been mostly unavailable to my client.
18 We got access to the reserved spot on the 4th, and we've reported
19 to SHA about six times that a car has been parked there. And
20 many of those times they were parked there overnight and at times
21 even more than one night. So it's been frequent and it's been a
22 long time that cars have been parked there.

23 THE COURT: And you say you have been in contact with
24 Seattle Housing Authority. Can you identify the persons you have
25 had contact with?

1 MS. FONG: Yes. Ms. Tift.

2 THE COURT: And what has been the response on these
3 calls or contacts with her?

4 MS. FONG: She said that there has -- that they're not
5 adequately staffed to enforce the parking, and so they're unable
6 to enforce the reserved parking.

7 THE COURT: Okay. All right. Anything else you wish to
8 advise the Court about?

9 MS. FONG: Yes, Your Honor. We're just asking that SHA
10 not do nothing in this situation. It's been pretty difficult for
11 our client to have a car parked there for multiple days and not
12 have any cooperation from SHA in this matter.

13 THE COURT: And do you know what the current status of
14 the appeal was or is?

15 MS. FONG: Yes. We just got notice about a half an hour
16 ago, or 40 minutes ago, that they denied him again a parking
17 space. So we will be filing the joint status report, but we
18 haven't had an opportunity to fully digest it or even consult
19 with our client yet.

20 THE COURT: All right. Thank you.

21 I will hear from counsel for the defendant at this time,
22 Ms. Tift.

23 MS. TIIFT: First of all -- thank you, Your Honor -- can
24 you hear me okay?

25 THE COURT: Yes.

1 Can the court reporter? Nickie?

2 THE COURT REPORTER: Yes, I can. Thank you.

3 MS. TIIFT: Okay.

4 THE COURT: Okay. Thank you.

5 MS. TIIFT: So a few things that we're missing are these
6 facts. The notice that we get from Ms. Fong about parking
7 infractions generally are in the evening or over the weekend. It
8 is true that Ms. Fong gave me notice that there was a car parked
9 for several days in the reserved space, but that was over the
10 weekend, and the building -- we don't have staff in the offices
11 on the weekends and we don't have staff in the offices after
12 business hours.

13 Last Friday, I received a message from Ms. Fong, and she said
14 someone was parked in Mr. Rogue's space, but our offices were
15 closed at one o'clock so that people could participate in the
16 silent march. So I'm getting these notices and responding to
17 them and telling her there's nothing I can do at the time because
18 there is literally no one in the building who's available to call
19 a tow truck.

20 So that sort of establishes that -- What we're trying to
21 do -- The Court ordered us to reserve space. I indicated to
22 Ms. Fong and Mr. Reynoldson that what we wanted to do was order a
23 sign. Mr. Reynoldson said no, he wanted a sign up that day. So
24 it's true, there's a laminated piece of paper that says "Reserved
25 Parking." You directed that the name not be used, and so it's

1 not. We also put a cone in front of the parking space. We took
2 a picture of it, forwarded it to Mr. Roque, and said, "Please
3 tell your care providers this is what they should look for. It's
4 Space No. 25."

5 It's true that residents move the cone and park in the space,
6 but they're doing this at night and on weekends. And there's
7 just -- there's just no one there to respond to a request for
8 somebody to go up and do something about the parking.

9 What we have as a practice in that building is we give a
10 warning before we issue -- before we have a car towed. And we
11 are extremely reluctant to have resident cars towed, and the
12 reason is -- and I have explained this to Ms. Fong as well -- an
13 average tow fee is \$300. The average monthly rent for a resident
14 at Raven Terrace is \$250. When we tow those cars, we're loading
15 the residents with debt that we know they can't pay. So we try
16 to enforce cooperation through warnings and notices before we
17 take the extreme step of towing cars. And these have been
18 multiple offenders, not the same person.

19 Ms. Fong notified me yesterday that there was someone parked
20 in the parking space. We went out and put a notice there. But,
21 you know, even if we were to call a tow truck, they come when
22 they come, they're not instantaneous. So that is a problem as
23 well.

24 And while -- I just want to say that Ms. Fong is correct
25 that the ADA Committee's decision is that providing him a

1 reserved space in Raven Terrace is not going to be workable for
2 all of the reasons that we have seen so far. I also wanted to
3 add that due to the stay-at-home order, we're not allowed to have
4 as many people in the office as we normally would. So the office
5 at Raven Terrace has one-third -- at any given time one-third the
6 number of people that it usually would. So in addition to just
7 the regular problems, we have limited staffing as a consequence
8 of COVID.

9 So what we did instead, what the ADA Committee decision said
10 is, if Mr. Rogue wants to move to a different property, we will
11 transfer him. That was the ADA decision. The accommodation
12 that's being offered is, we will transfer him to another property
13 where they do have more adequate parking and he can have a
14 specific assigned space.

15 THE COURT: Okay. Do you know if there's any response
16 provided by your client at that time or what its current position
17 is regarding that proposal by the ADA Committee?

18 MS. TIIFT: Your Honor, in fairness -- this is Leigh Ann
19 Tift, I'm sorry -- in fairness, they did just get it just a
20 little bit ago.

21 THE COURT: Okay. All right. Well, let me ask you
22 this, counsel. What other steps do you see, in light of the
23 limitations that you provided to this Court, that could assist in
24 remedying this conflict?

25 MS. TIIFT: We could hire a security guard, but that

1 doesn't seem like that's a reasonable accommodation. We could --
2 We're not allowed to put cameras up, so that's not going to work.
3 I honestly don't know what else to do. And on nights and
4 weekends, I mean, we just don't have any people in the building;
5 there's no one to report to.

6 THE COURT: Okay. Anything further, counsel?

7 Ms. Tift?

8 MS. TIIFT: No, Your Honor.

9 THE COURT: Okay.

10 All right. Ms. Fong, you have heard the limitations in terms
11 of -- from a practical standpoint, the limitations because of
12 COVID-19 with the limited staffing and the nature of the
13 individuals who are violating the parking stall restrictions. So
14 I'm trying to find a reasonable and rational approach in light of
15 the circumstances. And just a proposal to the Court to make
16 Seattle Housing Authority make a space available, that's not
17 giving the Court much guidance in terms of a specific remedy, a
18 specific relief.

19 Now, let me hear from you first, before the Court makes any
20 final determination.

21 MS. FONG: Yes, Your Honor. This is Bonnie Fong.

22 Here, I -- we would like SHA to do something. Again, we've
23 requested that they identify which cars have been parking there
24 so that we can get to the bottom of who is parking there, whether
25 it's residents or SHA employees. If it is indeed residents, then

1 I think a bigger and more obvious sign saying "Reserved Parking
2 Under Court Order," or something to that effect, would give
3 people more notice that this is a reserved spot that's not for
4 them. And if it is SHA employees, then we can direct SHA to
5 inform and train their employees that this space is not for SHA
6 purposes but for a specific reason. The cone does say "SHA" on
7 it, which is why I think that it is possible that it's SHA
8 employees. But without knowing who is parking in the spot, we
9 don't know what the root of the problem is. I've asked Ms. Tift
10 to --

11 THE COURT: Let me ask you this, counsel. Counsel, let
12 me ask you this question. From a practical standpoint, if these
13 parking violations are occurring after hours, there's no staff on
14 board, how are they to acquire the identification of the license
15 numbers of the vehicles parking there?

16 MS. FONG: So under SHA policy, they have to provide the
17 license plate numbers and the driver's license of all the
18 individuals who are able to park down there. That's one of the
19 requirements of being able to park in the parking garage. So to
20 the extent --

21 THE COURT: I understand that, counsel. But I'm saying
22 on Friday -- counsel, I'm saying, on Friday night, it's 8:30 in
23 the evening, SHA employees are gone, there's no staffing to
24 record license numbers. How are they supposed to know, other
25 than some other person writing down the license numbers?

1 MS. FONG: Sure. Well, Your Honor, we have given them
2 the license plate numbers. And so, you know, even if just doing
3 one search today, for example, on all of the license plate
4 numbers, so we can see if they're residents or if they're
5 employees, I think would help to pinpoint what exactly the
6 problem is, whether we need a bigger sign or if we need to tell
7 SHA employees that this isn't a reserved space for SHA.

8 MS. TIFT: Your Honor, if I could speak to that, please?

9 I can assure you these are not SHA employees. SHA employees
10 have two reserved spaces in the building. They don't park
11 anywhere else.

12 THE COURT: Okay. Let me ask counsel for the plaintiff.
13 Ms. Fong, are you amenable to having your client's either
14 apartment number or name on that signage? Because right now it
15 just says, generically, do not park. Does that provide any value
16 or assistance?

17 MS. FONG: Our client has specifically requested that we
18 not put his name or unit number on the space because he fears
19 retaliation from other residents, which is why I was thinking if
20 we say "Reserved Parking Under Court Order Number X," then I
21 think people would have -- would be put on more notice that this
22 is for a specific reason.

23 MR. REYNOLDSON: This is Conrad Reynoldson. I did want
24 to add one thing as well.

25 Since we do know the license plate numbers because Mr.

1 Rogue's caregivers take a picture of them, which we can provide,
2 one other potential thing would be that SHA could contact these
3 people individually and just give them a phone call, let them
4 know that this is a reserved spot, they can't park there, and
5 really get into it personally, directly. And that seems like
6 that might be a way to address this.

7 THE COURT: And, counsel, when you say a bigger sign,
8 what do you have in mind?

9 MS. FONG: This is Ms. Fong. Yes, something that is
10 larger in size. Perhaps --

11 THE COURT: That doesn't help the Court at all. I
12 need specific dimensions that you are asking of the Court to add.

13 MS. FONG: Sure, Your Honor. Well, a
14 three-foot-by-four-foot sign would be bigger and I think more
15 obvious.

16 MR. REYNOLDSON: This is Conrad Reynoldson.

17 I would also add that if it was something that looked more
18 official. One example that we sent to you and Ms. Tift was an
19 example of kind of like a red sign that clearly looks official
20 and says, for example, that, you know, violators may be towed.

21 THE COURT: Okay. Anything further?

22 MR. ZITO: Your Honor, this is Tom Zito also for
23 plaintiff.

24 And I leave it to the local co-counsel, but let me know if
25 this is feasible. Something that occurred to me is the Housing

1 Authority has said that there are no staff on site during certain
2 times and whether it would be feasible for our client's
3 caregivers to park in staff parking if that reserved spot at 25
4 is occupied by someone else.

5 MS. TIIFT: Your Honor, this is Ms. Tift. I'm amenable
6 to that, but it's kind of the same problem. All the residents
7 know that as well.

8 {Undecipherable overtalking.)

9 THE COURT REPORTER: I'm sorry. Can you repeat that?

10 MS. TIIFT: Your Honor, this is Leigh Ann Tift. And
11 we're amenable to having the caregivers park in staff parking
12 spaces after office hours and on weekends. Of course, that's
13 fine. But the residents know that as well.

14 THE COURT: So are you indicating that other residents
15 park in staff parking over the weekend?

16 MS. TIIFT: Yes.

17 THE COURT: And is that based on personal knowledge,
18 counsel?

19 MS. TIIFT: Based on a conversation I had with
20 Ms. O'Connor, who is the property manager.

21 THE COURT: All right. Anything further from the
22 parties?

23 MS. TIIFT: No, Your Honor. This is Leigh Ann Tift.

24 THE COURT: All right.

25 MS. FONG: No, Your Honor.

1 THE COURT: Ms. Tift, how difficult is it to modify the
2 sign? And I don't know what the space even looks like or what
3 the wall space looks like. How difficult is it to create a sign
4 that's larger? And what will that wall accommodate as far as
5 signage over the parking spot?

6 MS. TIIFT: It's concrete, so you can't -- we would have
7 to -- if you want to put it in permanently, we would have to
8 probably drill into the concrete.

9 We can try a bigger sign. I'm happy to try that. I -- we
10 can try.

11 THE COURT: All right. Well, let's do this, counsel.
12 Is there any objection that you have to the three-by-four sign
13 for the parking stall sign?

14 MS. TIIFT: No, but -- not at all. And we can get on
15 that. But it's not going to be immediate because we're going to
16 probably have to have it either made or laminated professionally,
17 I think. And the problem last time was Mr. Reynoldson said he
18 wanted it up that day, so we did the best we could on that day.
19 But, yes, I will try.

20 THE COURT: All right. I will direct counsel to place
21 larger signage on that.

22 THE CLERK: Your Honor, just to interrupt, this is
23 Victoria. We just heard that somebody chimed out. I just want
24 to make sure Nickie is still on the line before we continue.

25 THE COURT REPORTER: I am on the line, Victoria. Thank

1 you very much.

2 THE CLERK: Okay. Thank you.

3 Sorry, Your Honor.

4 THE COURT: Let's confirm with the parties. Could the
5 parties for the plaintiff please confirm your presence?

6 MS. FONG: Bonnie Fong is here, Your Honor.

7 MR. REYNOLDSON: Conrad Reynoldson is here, Your Honor.

8 THE COURT: And is Mr. Zito present?

9 MR. ZITO: (No audible response.)

10 THE COURT: All right. The Court will continue. The
11 plaintiff has adequate representation.

12 And I will direct that the respondents, or defendants in this
13 case, provide a sign that's no less than three-by-three in
14 dimensions. The Court will direct that the signage be in a
15 brighter color than is currently existing, that the signage
16 should indicate that "Violators Will Be Towed," and that the
17 signage should further indicate that this space is reserved
18 pursuant to the case number in this matter. The Court will
19 further direct that, to the extent known, that Seattle Housing
20 Authority provide the license numbers of any parking violators,
21 and, last, that Seattle Housing Authority issue a memorandum to
22 any employee that will be entitled to park in that parking lot to
23 confirm that they are advised that they are not permitted to park
24 in that reserved stall. And I think that covers ... And also
25 that the plaintiff is permitted --

1 THE COURT REPORTER: I'm sorry, Your Honor. Could you
2 repeat that last sentence? "And also that the plaintiff is
3 permitted -- "

4 THE COURT: And that plaintiff's staffing or care
5 providers may park in reserved staff stalls on weekends after
6 p.m.

7 And counsel for the defendant, what time would the staff be
8 in in the morning on Monday?

9 MS. TIFT: Typically, they're -- someone is there at
10 8:00.

11 THE COURT: All right. Then I will say until 6 a.m. on
12 Monday.

13 Any additional concerns or objections to the directives
14 provided by the Court for the plaintiff?

15 MR. REYNOLDSON: Your Honor, this is Conrad Reynoldson.
16 I guess one thing I wanted to clarify on that would be that if
17 we're clear on the license plate numbers of who is violating
18 this, if we could have SHA directly contact them to let them know
19 that they can't park there. Because they know who these people
20 are.

21 THE COURT: Ms. Tift, do you have the capacity to do
22 that?

23 MS. TIFT: When we find them, we do post a warning for
24 them. If you're asking that we assign someone to go through the
25 40-plus license plates every time we have a violation, I think

1 that given our COVID-19 staffing, I think that is going to be a
2 problem. If I add anything, we don't -- we're limping along with
3 one-third the number of people we're supposed to have in the
4 building.

5 THE COURT: Okay.

6 Well, counsel, I'm not going to require the defendants in
7 this case to undertake that responsibility. I think the Court's
8 resolution is fair and reasonable in the context of the
9 circumstances. And when I say "context of the circumstances,"
10 I'm including the COVID-19 stay-at-home restriction. I think
11 it's a bit unreasonable under these circumstances that limited
12 staff should be expected to engage in full duty when the staffing
13 is reduced as it apparently has been. So that specific request,
14 counsel, is going to be denied.

15 Any other concerns? And this would be done by way of an
16 order, a minute order. That should be sufficient to put the
17 parties on notice of what the Court has permitted and allowed and
18 nothing further.

19 And the Court will direct that the efforts by Seattle Housing
20 Authority is to use all reasonable efforts to prepare and create
21 the sign and have it placed as soon as possible.

22 MS. TIFT: Yes, Your Honor.

23 THE COURT: Anything further from plaintiff?

24 MS. FONG: No, Your Honor.

25 THE COURT: Anything further from the defendant?

1 MS. TIIFT: No, Your Honor.

2 THE COURT: All right.

3 And, counsel, the last thing. This should not be a
4 crisis-level issue that requires court intervention. Ms. Fong,
5 it's been represented that your calls are either late evenings
6 or on weekends. I know the issue may be presented to you by your
7 client, but you have to use reason in terms of when you expect an
8 response or a turnaround or an attempt at resolution. The
9 Appeals Board has made a proposal in terms of relocation, I'm not
10 going to be involved in that at this point in time, but I would
11 ask the parties to use reason and common sense in trying to work
12 out your differences without necessarily having to burden the
13 Court with getting involved at this level for this type of an
14 issue. It's not that complicated.

15 We will be in recess.

16 MS. TIIFT: Thank you, Your Honor.

17 (Adjourned.)

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1 C E R T I F I C A T E
23 I, Nickoline M. Drury, RMR, CRR, Court Reporter for the
4 United States District Court in the Western District of
5 Washington at Seattle, do certify that the foregoing is a correct
6 transcript, to the best of my ability, from the record of
7 proceedings in the above-entitled matter.

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/s/ Nickoline Drury

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Nickoline Drury

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